

State of South Dakota

SEVENTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2000

394D0738

HOUSE BILL NO. 1284

Introduced by: Representatives Brooks, Hennies, and Kooistra and Senators Munson (David),
Albers, Daugaard, and Dunn (Rebecca)

1 FOR AN ACT ENTITLED, An Act to include vehicular battery as an offense for which the
2 statutory presumptions arising from a chemical analysis of bodily fluids apply.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-23-7 be amended to read as follows:

5 32-23-7. In any criminal prosecution for a violation of § 32-23-1 relating to driving a vehicle
6 while under the influence of intoxicating liquor, ~~or~~ a violation of § 22-16-41, or a violation of
7 § 22-16-42, the amount of alcohol in the defendant's blood at the time alleged as shown by
8 chemical analysis of the defendant's blood, breath, or other bodily substance shall give rise to the
9 following presumptions:

10 (1) If there was at that time five hundredths percent or less by weight of alcohol in the
11 defendant's blood, it shall be presumed that the defendant was not under the influence
12 of intoxicating liquor;

13 (2) If there was at that time in excess of five hundredths percent but less than ten
14 hundredths percent by weight of alcohol in the defendant's blood, such fact shall not
15 give rise to any presumption that the defendant was or was not under the influence of
16 intoxicating liquor, but such fact may be considered with other competent evidence

1 in determining the guilt or innocence of the defendant;

2 (3) If there was at that time ten hundredths percent or more by weight of alcohol in the
3 defendant's blood, it shall be presumed that the defendant was under the influence of
4 intoxicating liquor.

5 Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per 1.0
6 cubic centimeters of whole blood or 2100 cubic centimeters of deep lung breath.